

tribution; and therefore, as among them, the Court may, if called upon, by a decree over, so adjust the burthen as to cause it to bear equally or in due proportion upon each of them. *Meadbury v. Isdall*, 9 Mod. 438; 1 Mad. Chan. 233.

Consequently, as this cause of suit is in its nature indivisible and the same against all of these defendants; and as no one of them has even set up, much less sustained any separate defence, which, like that of a plea of *plene administravit* by one of two or more executors, would go to show, that he could not be charged in connexion with the other defendants, the interests of all must be bound by the decree, unless it shall be found from the defence of any one, either that the whole cause of suit never existed, or that it has been barred or satisfied. It now, therefore, becomes necessary to consider the nature of the defences, which have been made to this bill of complaint.

From the general character of the answer of English and wife, and from the express and distinct allegations in the body of it, and also from its having been received and replied to by the plaintiffs; the Court may now regard it as the separate answer of each, as much so as if the wife had obtained an order expressly allowing her to answer separately. A wife cannot, under any circumstances, be a witness for or against her husband; and for that reason, he can in no case be bound by any thing she sets forth in her answer. *Le Texier v. Anspach*, 15 Ves. 165. Consequently, whether this is to be considered as altogether a joint answer; or as being in fact two regular and distinct answers of these defendants, it is clear, that nothing * which Lydia has said can be allowed to affect the interest of her husband David. But in the body of this answer, which has been properly sworn to by her as well as her husband, she expressly declares, that as to various circumstances as therein set forth by way of defence, she speaks for herself alone, as the administratrix of the deceased John Henderson. Where a bill was filed by a legatee against husband and wife, she being the executrix, and after they had answered he died; it was held, that she was bound by the answer they had so made in his life-time. *Shelberry v. Briggs*, 2 Vern. 249. And where the husband wife had not answered separately, or had not so answered under the previous sanction of an order of the Court, she was held bound by so much of the answer as was called for and purported to come from her. *Wrottesley v. Bendish*, 3 P. Will. 236; *Le Neve v. Le Neve*, 3 Atk. 648. Or which in point of fact had been made by and received from her as her separate answer. *Chandos v. Talbot*, 2 P. Will. 371. And if a wife who is executrix knows, or apprehends, that her husband will answer to her prejudice, or if in any case she disapproves of the defence he wishes to make, the Court will give her leave to answer separately. *Ex parte Halsam*, 2 Atk. 56; *Wybourn v. Blount*, Dick. 155; 2 Eq. Ca. Abr. 66; *Mitf.* **270**